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Filing date: **04/21/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	77705566
Applicant	Alpargatas S.A.
Correspondence Address	BARBARA H LOEWENTHAL GOTTLIEB RACKMAN & REISMAN PC 270 MADISON AVE NEW YORK, NY 10016-0601 UNITED STATES efiling@grr.com, bloewenthal@grr.com
Submission	Applicants Request for Remand and Amendment
Attachments	misc design (rice Pattern).pdf(157123 bytes) declaration Rice pattern.pdf(166969 bytes) ricepattern.remand.pdf(7932 bytes)
Filer's Name	Barbara Loewenthal
Filer's e-mail	efiling@grr.com
Signature	/bloewenthal/
Date	04/21/2015

In the Matter of Trademark Application:

Applicant: Alpargatas S.A.

Serial No.: 77/705,566

Filed: April 2, 2009

Trademark: Misc. Design (Rice Pattern)

Commissioner for Trademarks
Box Responses – No Fee
P.O. Box 1450
Alexandria VA 22313-1450

RESPONSE

In accordance with Request to Remand, it is respectfully requested that the Examining Attorney enter the following amendments to the above referenced application:

- 1) Amend the application by claiming Section 2(f) in accordance with the declaration attached
- 2) Amend the application with the substitute drawing attached which shows the mark as set forth in the specimens.

In view of the above, favorable action is requested.

Respectfully submitted,

Gottlieb Rackman & Reisman, P.C.

/bloewenthal/

Dated: April 21, 2015

New York, New York

Barbara Loewenthal
Attorney for Applicant
270 Madison Avenue
New York, NY 10016
(212)684-3900

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Matter of Trademark Application

Applicant: Alpargatas S.A.

Serial No.: 77/705,566

Law Office: 104

Mark: Miscellaneous Design (Rice Pattern) TM Atty: Chris Doninger

Filed: April 2, 2009

DECLARATION OF APPLICANT

I, Marcio Junqueira Leite, being duly sworn, depose and state:

1. I declare the following information from my personal knowledge and if called upon to do so, could competently testify to the facts submitted in this declaration.
2. I am the attorney-in-fact of Applicant, Alpargatas S.A., a corporation of Brazil, located at Avenida Doutor Cardoso de Melo, 1336, 14th Floor, Vila Olimpia, Sao Paulo, 04548-004, Brazil, and I have been the attorney of Applicant since August, 2002. Accordingly, I am authorized to make this declaration on behalf of Applicant in the above-identified trademark Application. I am fully familiar with its business affairs, including overseeing and developing the trademarks of Applicant.
3. Applicant is the owner of all right, title and interest in and to the trademark that is the subject of U.S. Application Serial No. 77/705,566 in connection with socks, footwear, namely, tennis shoes, sports shoes, shoes for practicing sports, boots, gymnastic shoes, bathing sandals, bathing thongs and sandals (hereinafter "the goods").
4. I am submitting this Application in support of Applicant's Application Serial No. 77/705,566 for the design mark represented in the drawing attached herewith,

consisting of a two dimensional pattern of vertical ovals forming horizontal and diagonal lines used on the surface of the foot bed of the goods.

5. The applied for mark has been in use in commerce since November, 1993 and has been in use in interstate commerce since that time.

6. The specific design identified in the mark is not being claimed or has not been claimed in a design or utility patent belonging to the Applicant.

7. Since its introduction in the market there has been substantial distribution of the goods under the trademark that is the subject of this Application. For example, since its introduction into the market Applicant has sold approximately 15.534 pieces of footwear with the referenced design. Moreover, since 2005, distribution of the goods with the trademark has been as follows:

<u>Year</u>	<u>Units Distributed</u>
2005	1.509
2006	2.482
2007	771
2008	2.414
2009	1.987
2010	2.027
2012	1.792
2013	2.552

8. Accordingly, since 2005, aggregate sales in the United States of the mark for the goods have exceeded 15.534.

9. Advertising expenditures will exceed \$54,302 by the end of 2013, indicating that the mark is exceedingly well known and that the mark has already achieved the status of a source indicator.

10. Applicant's advertisements for the goods embodying the applied for configuration have appeared in and been featured in national publications, on the internet and in

other media outlets. Many of these advertisements prominently depict the configuration of the trademark that is being sought to be registered, herein. Some of the advertising, include:

- Ha_Tradeshow, Gift Card Holder Exterior, and Havaianas Press Recap Nov,
- Copies of the articles/advertisements are attached herewith as Exhibit "1, 2 and 3"

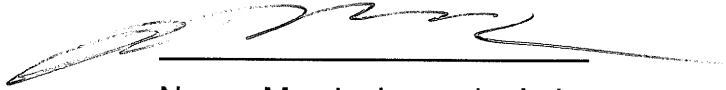
11. Most of the media attention has been unsolicited by Applicant demonstrating that the mark has achieved a high reputation from independent sources. Also, the stories written about the goods show the notoriety of the mark and demonstrate that the public associates it with Applicant and as a source of origin of its goods.

12. In my experience and based on the mentioned widespread sales, consumers have become familiar with the trademark designating Applicant. Further considering Applicant's sales and marketing of MISCELLANEOUS DESIGN (RICE PATTERN) and given the widespread unsolicited media attention, I believe the mark has acquired distinctiveness.

13. The trademark is a valuable asset of the Applicant and based on the substantial recognition which the mark has already achieved, as well as the significant advertising expended on the mark, I believe the mark is entitled to registration on the Principal Register.

14. I hereby declare all statements made herein are believed to be true and correct.

15. Applicant has made substantially exclusive and continuous use of the designation as a mark of the Applicant for the goods in commerce for the five years before the date on which the claim of distinctiveness is made.



Name: Marcio Junqueira Leite
Title: Attorney-in-fact

Dated:

Jul 31st, 2014

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Commissioner for Trademarks

BOX TTAB - NO FEE

P.O. Box 1450

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REQUEST TO REMAND AND REQUEST FOR SUSPENSION

Applicant, through its undersigned counsel requests that the Trademark Trial and Appeal Board remand the above-application to the Examining Attorney for further consideration of the amended drawing and declaration under Sec 2(f), which, if accepted, should resolve the outstanding issues with regards to the Office Action, and obviate the refusal to register.

Applicant also requests that further action on the Appeal be suspended pending disposition of action by the Examining Attorney. In the event the Examining Attorney refuses the Amendment, Applicant requests that the deadline for filing an Appeal brief be resumed.

In view of the above, favorable action is requested.

Dated:
New York, New York

Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN, P.C.

/bloewenthal/

Barbara Loewenthal
Attorney for Applicant
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